

SAINT REGIS MOHAWK TRIBAL APPELLATE COURT

Alexander Garrow, III

Appellant

-V-

Mohawk Distribution, LLC.

Appellee

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DECISION AND ORDER

17-APP-00002

Jurisdiction

The case comes before the Court of Appeals on appeal from a decision issued by the Tribal Court on January 17, 2017. The Court of Appeals possesses “jurisdiction to hear all appeals from the Tribal Court.”¹

Procedural History

The procedural history prior to trial is set forth in the Order issued by the Saint Regis Mohawk Tribal Court, issued January 17, 2017.

The Tribal Court held trial in this matter on October 24, 2016, concluding the trial on November 15, 2016. The Tribal Court issued a decision on January 17, 2017.

Appellant Garrow subsequently filed his timely Notice of Appeal with the SRMT Court of Appeals on January 31, 2017. Appellant Garrow has not filed proof of service for the Notice of Appeal, nor has any request for the hearing recordings been made. Neither party has filed briefs.

Analysis

Proof of Service Not Filed

The SRMT Rules of Appellate Procedure, Section V (B)² requires that a party filing an appeal serve the opposing party on or before filing the Notice of Appeal. Section V(C) of the same Rules of Appellate

¹ Saint Regis Mohawk Tribal Court and Judiciary Code, Section V. 3. (Amended May 8, 2012).

² Rules of Appellate Procedure, Section V states, in pertinent part:

B. Service of All Papers Required; Notice By the Court Manner of Service

Copies of all papers filed by any party shall be served by a party or person acting for him or her, who is over the age of eighteen (18), on all other parties to the appeal at or before the time of filing. This Rule shall not apply to the transcript filed pursuant to Section 10, Rule 8. Service may be personal or by mail. Personal service includes delivery of the copy to counsel, or a clerk, or other responsible person over the age of eighteen (18) at the office of counsel, or to any pro per party. Service by mail is complete upon mailing. Service of copies of notice and papers that the Clerk of the Appellate Court must serve on parties to the appeal shall also be made in accordance with the foregoing.

C. Proof of Service

Papers presented for filing shall contain an acknowledgement of service by the person served, or proof of service in the form of a statement of the date and manner of service and of the name of the person served, signed by the person who made service. Proof of service may appear on or be annexed to the paper filed.

Procedure requires the proof of service be filed with the Notice of Appeal. No proof of service has been filed in this case. Therefore, this Court finds that the Appeal has not been perfected in a timely manner.

Appellant Failed to Cause Timely Transmission of the Record

In addition to serving the Notice of Appeal on the opposing party and providing the Court proof of service, the SRMT Rules of Appellate Procedure, Section XI (C) requires that the Appellate Court dismiss an appeal on its own motion in the event that appellant fails to timely transmit the record on appeal. Appellant filed his appeal on January 31, 2017. The Appellant was required to order a transcript of the proceedings within ten (10) days after filing the Notice of Appeal. To date, no transcript has been ordered, or filed with the Court Clerk. The Appellant has neither requested an extension of time, nor exercised the alternatives to the filing of a transcript allowed under the SRMT Rules of Appellate Procedure.

ORDER

For the reasons stated herein, this appeal is DISMISSED with prejudice. The Tribal Court Order dated January 17, 2017 remains in full force and effect.

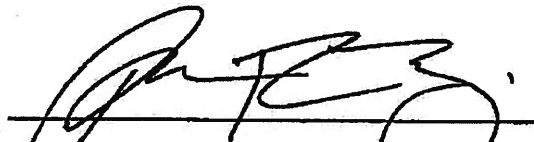
Signed by my hand this 8th day of June, 2017.



Michele Mitchell, Chief Appellate Judge
Saint Regis Mohawk Tribal Appellate Court



Karla General, Associate Appellate Judge
Saint Regis Mohawk Tribal Appellate Court



Patricia Lenzi, Associate Appellate Judge
Saint Regis Mohawk Tribal Appellate Court